

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

ARTURO SANTOS GARCIA,	)	Case No. 8:23-cv-946-CJC(JDEx)
	)	
Plaintiff,	)	STIPULATED PROTECTIVE ORDER
	)	
v.	)	
	)	
ROBERTO VARGAS HERNANDEZ,	)	
	)	
Defendant.	)	

Pursuant to the parties' Stipulation (Dkt. 39) and for good cause shown, the Court finds and orders as follows.

1. PURPOSES AND LIMITATIONS

Discovery in this action is likely to involve production of confidential, proprietary or private information for which special protection from public disclosure and from use for any purpose other than pursuing this litigation may be warranted. Accordingly, the parties hereby stipulate to and petition the Court to enter the following Stipulated Protective Order. The parties acknowledge that this Order does not confer blanket protections on all disclosures or responses to discovery and that the protection it affords from public disclosure and use extends

1 only to the limited information or items that are entitled to confidential treatment  
2 under the applicable legal principles.

3 2. GOOD CAUSE STATEMENT

4 This action is likely to involve private and/or personal information for which  
5 special protection from public disclosure and from use for any purpose other than  
6 prosecution of this action is warranted. Such confidential materials and information  
7 consist of, among other things, medical records, personal financial information,  
8 intimate private communications, private videos and photographs, or other  
9 confidential information (including information implicating privacy rights of third  
10 parties), information otherwise generally unavailable to the public, or which may  
11 be privileged or otherwise protected from disclosure under the state or federal  
12 constitutions, state or federal statutes, court rules, case decisions, or common law.  
13 Accordingly, to expedite the flow of information, to facilitate the prompt resolution  
14 of disputes over confidentiality of discovery materials, to adequately protect  
15 information the parties are entitled to keep confidential, to ensure that the parties  
16 are permitted reasonable necessary uses of such material in preparation for and in  
17 the conduct of trial, to address their handling at the end of the litigation, and serve  
18 the ends of justice, a protective order for such information is justified in this  
19 matter. It is the intent of the parties that information will not be designated as  
20 confidential for tactical reasons and that nothing be so designated without a good  
21 faith belief that it has been maintained in a confidential, non-public manner, and  
22 there is good cause why it should not be part of the public record of this case.

23 3. ACKNOWLEDGMENT OF UNDER SEAL FILING PROCEDURE

24 The parties further acknowledge, as set forth in Section 14.3, below, that this  
25 Stipulated Protective Order does not entitle them to file confidential information  
26 under seal; Local Civil Rule 79-5 sets forth the procedures that must be followed  
27 and the standards that will be applied when a party seeks permission from the court  
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1 to file material under seal. There is a strong presumption that the public has a right  
2 of access to judicial proceedings and records in civil cases. In connection with non-  
3 dispositive motions, good cause must be shown to support a filing under seal. See  
4 Kamakana v. City and County of Honolulu, 447 F.3d 1172, 1176 (9th Cir. 2006),  
5 Phillips v. Gen. Motors Corp., 307 F.3d 1206, 1210-11 (9th Cir. 2002), Makar-  
6 Welbon v. Sony Electronics, Inc., 187 F.R.D. 576, 577 (E.D. Wis. 1999) (even  
7 stipulated protective orders require good cause showing), and a specific showing of  
8 good cause or compelling reasons with proper evidentiary support and legal  
9 justification, must be made with respect to Protected Material that a party seeks to  
10 file under seal. The parties' mere designation of Disclosure or Discovery Material  
11 as CONFIDENTIAL does not— without the submission of competent evidence by  
12 declaration, establishing that the material sought to be filed under seal qualifies as  
13 confidential, privileged, or otherwise protectable—constitute good cause.

14 Further, if a party requests sealing related to a dispositive motion or trial,  
15 then compelling reasons, not only good cause, for the sealing must be shown, and  
16 the relief sought shall be narrowly tailored to serve the specific interest to be  
17 protected. See Pintos v. Pacific Creditors Ass'n., 605 F.3d 665, 677-79 (9th Cir.  
18 2010). For each item or type of information, document, or thing sought to be filed  
19 or introduced under seal, the party seeking protection must articulate compelling  
20 reasons, supported by specific facts and legal justification, for the requested sealing  
21 order. Again, competent evidence supporting the application to file documents  
22 under seal must be provided by declaration.

23 Any document that is not confidential, privileged, or otherwise protectable  
24 in its entirety will not be filed under seal if the confidential portions can be  
25 redacted. If documents can be redacted, then a redacted version for public viewing,  
26 omitting only the confidential, privileged, or otherwise protectable portions of the  
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document, shall be filed. Any application that seeks to file documents under seal in their entirety should include an explanation of why redaction is not feasible.

4. DEFINITIONS

4.1 Action: *Arturo Santos Garcia v. Roberto Vargas Hernandez*, No. 8:23-cv-00946-CJC-JDE.

4.2 Challenging Party: a Party or Non-Party that challenges the designation of information or items under this Order.

4.3 “CONFIDENTIAL” Information or Items: information (regardless of how it is generated, stored or maintained) or tangible things that qualify for protection under Federal Rule of Civil Procedure 26(c), and as specified above in the Good Cause Statement.

4.4 Counsel: Counsel of Record as well as their support staff.

4.5 Designating Party: a Party or Non-Party that designates information or items that it produces in disclosures or in responses to discovery as “CONFIDENTIAL.”

4.6 Disclosure or Discovery Material: all items or information, regardless of the medium or manner in which it is generated, stored, or maintained (including, among other things, testimony, transcripts, and tangible things), that are produced or generated in disclosures or responses to discovery.

4.7 Expert: a person with specialized knowledge or experience in a matter pertinent to the litigation who has been retained by a Party or its counsel to serve as an expert witness or as a consultant in this Action.

4.8 Non-Party: any natural person, partnership, corporation, association or other legal entity not named as a Party to this action.

4.9 Party: any party to this Action, including consultants, retained experts, and Counsel (and their support staffs).

1           4.10 Producing Party: a Party or Non-Party that produces Disclosure or  
2 Discovery Material in this Action.

3           4.11 Professional Vendors: persons or entities that provide litigation  
4 support services (e.g., photocopying, videotaping, translating, preparing exhibits or  
5 demonstrations, and organizing, storing, or retrieving data in any form or medium)  
6 and their employees and subcontractors.

7           4.12 Protected Material: any Disclosure or Discovery Material that is  
8 designated as “CONFIDENTIAL.”

9           4.13 Receiving Party: a Party that receives Disclosure or Discovery  
10 Material from a Producing Party.

11           5.     SCOPE

12           The protections conferred by this Stipulation and Order cover not only  
13 Protected Material (as defined above), but also (1) any information copied or  
14 extracted from Protected Material; (2) all copies, excerpts, summaries, or  
15 compilations of Protected Material; and (3) any testimony, conversations, or  
16 presentations by Parties or their Counsel that might reveal Protected Material.

17           Any use of Protected Material at trial shall be governed by the orders of the  
18 trial judge and other applicable authorities. This Order does not govern the use of  
19 Protected Material at trial.

20           6.     DURATION

21           Once a case proceeds to trial, information that was designated as  
22 CONFIDENTIAL or maintained pursuant to this protective order used or  
23 introduced as an exhibit at trial becomes public and will be presumptively  
24 available to all members of the public, including the press, unless compelling  
25 reasons supported by specific factual findings to proceed otherwise are made to the  
26 trial judge in advance of the trial. See Kamakana, 447 F.3d at 1180-81  
27 (distinguishing “good cause” showing for sealing documents produced in  
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discovery from “compelling reasons” standard when merits-related documents are part of court record). Accordingly, the terms of this protective order do not extend beyond the commencement of the trial.

## 7. DESIGNATING PROTECTED MATERIAL

7.1 Exercise of Restraint and Care in Designating Material for Protection. Each Party or Non-Party that designates information or items for protection under this Order must take care to limit any such designation to specific material that qualifies under the appropriate standards. The Designating Party must designate for protection only those parts of material, documents, items or oral or written communications that qualify so that other portions of the material, documents, items or communications for which protection is not warranted are not swept unjustifiably within the ambit of this Order.

Mass, indiscriminate or routinized designations are prohibited. Designations that are shown to be clearly unjustified or that have been made for an improper purpose (e.g., to unnecessarily encumber the case development process or to impose unnecessary expenses and burdens on other parties) may expose the Designating Party to sanctions.

If it comes to a Designating Party’s attention that information or items that it designated for protection do not qualify for protection, that Designating Party must promptly notify all other Parties that it is withdrawing the inapplicable designation.

7.2 Manner and Timing of Designations. Except as otherwise provided in this Order, or as otherwise stipulated or ordered, Disclosure of Discovery Material that qualifies for protection under this Order must be clearly so designated before the material is disclosed or produced.

Designation in conformity with this Order requires:

(a) for information in documentary form (e.g., paper or electronic documents, but excluding transcripts of depositions or other pretrial or trial

1 proceedings), that the Producing Party affix at a minimum, the legend  
2 “CONFIDENTIAL” (hereinafter “CONFIDENTIAL legend”), to each page that  
3 contains protected material. If only a portion of the material on a page qualifies for  
4 protection, the Producing Party also must clearly identify the protected portion(s)  
5 (e.g., by making appropriate markings in the margins).

6 A Party or Non-Party that makes original documents available for inspection  
7 need not designate them for protection until after the inspecting Party has indicated  
8 which documents it would like copied and produced. During the inspection and  
9 before the designation, all of the material made available for inspection shall be  
10 deemed “CONFIDENTIAL.” After the inspecting Party has identified the  
11 documents it wants copied and produced, the Producing Party must determine  
12 which documents, or portions thereof, qualify for protection under this Order.  
13 Then, before producing the specified documents, the Producing Party must affix  
14 the “CONFIDENTIAL legend” to each page that contains Protected Material. If  
15 only a portion of the material on a page qualifies for protection, the Producing  
16 Party also must clearly identify the protected portion(s) (e.g., by making  
17 appropriate markings in the margins).

18 (b) for testimony given in depositions that the Designating Party  
19 identifies the Disclosure or Discovery Material on the record, before the close of  
20 the deposition all protected testimony.

21 (c) for information produced in some form other than documentary  
22 and for any other tangible items, that the Producing Party affix in a prominent  
23 place on the exterior of the container or containers in which the information is  
24 stored the legend “CONFIDENTIAL.” If only a portion or portions of the  
25 information warrants protection, the Producing Party, to the extent practicable,  
26 shall identify the protected portion(s).

1           7.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent  
 2 failure to designate qualified information or items does not, standing alone, waive  
 3 the Designating Party's right to secure protection under this Order for such  
 4 material. Upon timely correction of a designation, the Receiving Party must make  
 5 reasonable efforts to assure that the material is treated in accordance with the  
 6 provisions of this Order.

## 7           8. CHALLENGING CONFIDENTIALITY DESIGNATIONS

8           8.1. Timing of Challenges. Any Party or Non-Party may challenge a  
 9 designation of confidentiality at any time that is consistent with the Court's  
 10 Scheduling Order.

11           8.2 Meet and Confer. The Challenging Party shall initiate the dispute  
 12 resolution process under Local Rule 37-1 et seq.

13           8.3 Joint Stipulation. Any challenge submitted to the Court shall be via a  
 14 joint stipulation pursuant to Local Rule 37-2.

15           8.4 The burden of persuasion in any such challenge proceeding shall be on  
 16 the Designating Party. Frivolous challenges, and those made for an improper  
 17 purpose (e.g., to harass or impose unnecessary expenses and burdens on other  
 18 parties) may expose the Challenging Party to sanctions. Unless the Designating  
 19 Party has waived or withdrawn the confidentiality designation, all parties shall  
 20 continue to afford the material in question the level of protection to which it is  
 21 entitled under the Producing Party's designation until the Court rules on the  
 22 challenge.

## 23           9. ACCESS TO AND USE OF PROTECTED MATERIAL

24           9.1 Basic Principles. A Receiving Party may use Protected Material that is  
 25 disclosed or produced by another Party or by a Non-Party in connection with this  
 26 Action only for prosecuting, defending or attempting to settle this Action. Such  
 27 Protected Material may be disclosed only to the categories of persons and under  
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1 the conditions described in this Order. When the Action has been terminated, a  
2 Receiving Party must comply with the provisions of section 15 below (FINAL  
3 DISPOSITION).

4 Protected Material must be stored and maintained by a Receiving Party at a  
5 location and in a secure manner that ensures that access is limited to the persons  
6 authorized under this Order.

7 9.2 Disclosure of “CONFIDENTIAL” Information or Items. Unless  
8 otherwise ordered by the court or permitted in writing by the Designating Party, a  
9 Receiving Party may disclose any information or item designated  
10 “CONFIDENTIAL” only to:

11 (a) the Receiving Party’s Outside Counsel of Record in this Action, as  
12 well as employees of said Outside Counsel of Record to whom it is reasonably  
13 necessary to disclose the information for this Action;

14 (b) the officers, directors, and employees (including House Counsel)  
15 of the Receiving Party to whom disclosure is reasonably necessary for this Action;

16 (c) Experts (as defined in this Order) of the Receiving Party to whom  
17 disclosure is reasonably necessary for this Action and who have signed the  
18 “Acknowledgment and Agreement to Be Bound” (Exhibit A);

19 (d) the court and its personnel;

20 (e) court reporters and their staff;

21 (f) professional jury or trial consultants, mock jurors, and Professional  
22 Vendors to whom disclosure is reasonably necessary for this Action and who have  
23 signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

24 (g) the author or recipient of a document containing the information or  
25 a custodian or other person who otherwise possessed or knew the information;

26 (h) during their depositions, witnesses, and attorneys for witnesses, in  
27 the Action to whom disclosure is reasonably necessary provided: (1) the deposing  
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1 party requests that the witness sign the form attached as Exhibit A hereto; and (2)  
 2 they will not be permitted to keep any confidential information unless they sign the  
 3 “Acknowledgment and Agreement to Be Bound” (Exhibit A), unless otherwise  
 4 agreed by the Designating Party or ordered by the court. Pages of transcribed  
 5 deposition testimony or exhibits to depositions that reveal Protected Material may  
 6 be separately bound by the court reporter and may not be disclosed to anyone  
 7 except as permitted under this Stipulated Protective Order; and

8 (i) any mediators or settlement officers and their supporting personnel,  
 9 mutually agreed upon by any of the parties engaged in settlement discussions.

10 10. PROTECTED MATERIAL SUBPOENAED OR ORDERED  
 11 PRODUCED IN OTHER LITIGATION

12 If a Party is served with a subpoena or a court order issued in other litigation  
 13 that compels disclosure of any information or items designated in this Action as  
 14 “CONFIDENTIAL,” that Party must:

15 (a) promptly notify in writing the Designating Party. Such notification  
 16 shall include a copy of the subpoena or court order;

17 (b) promptly notify in writing the party who caused the subpoena or  
 18 order to issue in the other litigation that some or all of the material covered by the  
 19 subpoena or order is subject to this Protective Order. Such notification shall  
 20 include a copy of this Stipulated Protective Order; and

21 (c) cooperate with respect to all reasonable procedures sought to be  
 22 pursued by the Designating Party whose Protected Material may be affected. If the  
 23 Designating Party timely seeks a protective order, the Party served with the  
 24 subpoena or court order shall not produce any information designated in this action  
 25 as “CONFIDENTIAL” before a determination by the court from which the  
 26 subpoena or order issued, unless the Party has obtained the Designating Party’s  
 27 permission. The Designating Party shall bear the burden and expense of seeking  
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1 protection in that court of its confidential material and nothing in these provisions  
 2 should be construed as authorizing or encouraging a Receiving Party in this Action  
 3 to disobey a lawful directive from another court.

4 11. A NON-PARTY'S PROTECTED MATERIAL SOUGHT TO  
 5 BE PRODUCED IN THIS LITIGATION

6 (a) The terms of this Order are applicable to information produced by  
 7 a Non-Party in this Action and designated as "CONFIDENTIAL." Such  
 8 information produced by Non-Parties in connection with this litigation is protected  
 9 by the remedies and relief provided by this Order. Nothing in these provisions  
 10 should be construed as prohibiting a Non-Party from seeking additional  
 11 protections.

12 (b) In the event that a Party is required, by a valid discovery request,  
 13 to produce a Non-Party's confidential information in its possession, and the Party  
 14 is subject to an agreement with the Non-Party not to produce the Non-Party's  
 15 confidential information, then the Party shall:

16 (1) promptly notify in writing the Requesting Party and the Non-Party  
 17 that some or all of the information requested is subject to a confidentiality  
 18 agreement with a Non-Party;

19 (2) promptly provide the Non-Party with a copy of the Stipulated  
 20 Protective Order in this Action, the relevant discovery request(s), and a reasonably  
 21 specific description of the information requested; and

22 (3) make the information requested available for inspection by the  
 23 Non-Party, if requested.

24 (c) If the Non-Party fails to seek a protective order from this court  
 25 within 14 days of receiving the notice and accompanying information, the  
 26 Receiving Party may produce the Non-Party's confidential information responsive  
 27 to the discovery request. If the Non-Party timely seeks a protective order, the  
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1 Receiving Party shall not produce any information in its possession or control that  
2 is subject to the confidentiality agreement with the Non-Party before a  
3 determination by the court. Absent a court order to the contrary, the Non-Party  
4 shall bear the burden and expense of seeking protection in this court of its  
5 Protected Material.

6 12. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

7 If a Receiving Party learns that, by inadvertence or otherwise, it has  
8 disclosed Protected Material to any person or in any circumstance not authorized  
9 under this Stipulated Protective Order, the Receiving Party must immediately (a)  
10 notify in writing the Designating Party of the unauthorized disclosures, (b) use its  
11 best efforts to retrieve all unauthorized copies of the Protected Material, (c) inform  
12 the person or persons to whom unauthorized disclosures were made of all the terms  
13 of this Order, and (d) request such person or persons to execute the  
14 “Acknowledgment an Agreement to Be Bound” attached hereto as Exhibit A.

15 13. INADVERTENT PRODUCTION OF PRIVILEGED OR  
16 OTHERWISE PROTECTED MATERIAL

17 13.1 When a Producing Party gives notice to Receiving Parties that certain  
18 inadvertently produced material is subject to a claim of privilege or other  
19 protection, the obligations of the Receiving Parties are those set forth in Federal  
20 Rule of Civil Procedure 26(b)(5)(B). This provision is not intended to modify  
21 whatever procedure may be established in an e-discovery order that provides for  
22 production without prior privilege review.

23 13.2 Notwithstanding Federal Rule of Evidence 502(b)(2), inadvertent or  
24 unintentional production or disclosure may not be deemed a waiver in whole or in  
25 part of the Producing Party's claim of privilege or immunity from discovery either  
26 as to specific documents and information disclosed or on the same or related  
27 subject matter based on the facts constituting the inadvertent production.  
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1           13.3 Notwithstanding Federal Rule of Evidence 502(b)(3), a Producing  
 2 Party may make a notification pursuant to Federal Rule of Civil Procedure  
 3 26(b)(5)(B) at anytime within twenty-one (21) days of discovering a particular  
 4 inadvertent production or disclosure.

5           13.4 This provision is, and shall be construed as, an Order under Rule  
 6 502(d) of the Federal Rules of Evidence. Accordingly, as is explicitly set forth in  
 7 Rule 502(d), a Party's production of documents, whether inadvertent or intentional,  
 8 is not a waiver of any privilege or protection "in any other federal or state  
 9 proceeding." Fed. R. Evid. 502(d).

#### 10           14. MISCELLANEOUS

11           14.1 Right to Further Relief. Nothing in this Order abridges the right of any  
 12 person to seek its modification by the Court in the future.

13           14.2 Right to Assert Other Objections. By stipulating to the entry of this  
 14 Protective Order, no Party waives any right it otherwise would have to object to  
 15 disclosing or producing any information or item on any ground not addressed in  
 16 this Stipulated Protective Order. Similarly, no Party waives any right to object on  
 17 any ground to use in evidence of any of the material covered by this Protective  
 18 Order.

19           14.3 Filing Protected Material. A Party that seeks to file under seal any  
 20 Protected Material must comply with Local Civil Rule 79-5. Protected Material  
 21 may only be filed under seal pursuant to a court order authorizing the sealing of the  
 22 specific Protected Material. If a Party's request to file Protected Material under  
 23 seal is denied by the court, then the Receiving Party may file the information in the  
 24 public record unless otherwise instructed by the court.

#### 25           15. FINAL DISPOSITION

26           After the final disposition of this Action, as defined in paragraph 6, within  
 27 60 days of a written request by the Designating Party, each Receiving Party must  
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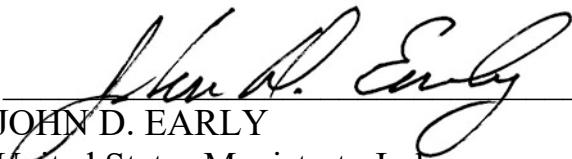
1 return all Protected Material to the Producing Party or destroy such material. As  
2 used in this subdivision, "all Protected Material" includes all copies, abstracts,  
3 compilations, summaries, and any other format reproducing or capturing any of the  
4 Protected Material. Whether the Protected Material is returned or destroyed, the  
5 Receiving Party must submit a written certification to the Producing Party (and, if  
6 not the same person or entity, to the Designating Party) by the 60-day deadline that  
7 (1) identifies (by category, where appropriate) all the Protected Material that was  
8 returned or destroyed and (2) affirms that the Receiving Party has not retained any  
9 copies, abstracts, compilations, summaries or any other format reproducing or  
10 capturing any of the Protected Material. Notwithstanding this provision, Counsel  
11 are entitled to retain an archival copy of all pleadings, motion papers, trial,  
12 deposition, and hearing transcripts, legal memoranda, correspondence, deposition  
13 and trial exhibits, expert reports, attorney work product, and consultant and expert  
14 work product, even if such materials contain Protected Material. Any such archival  
15 copies that contain or constitute Protected Material remain subject to this  
16 Protective Order as set forth in Section 6 (DURATION).

17 16. VIOLATION

18 Any violation of this Order may be punished by appropriate measures  
19 including, without limitation, contempt proceedings and/or monetary sanctions.  
20

21 FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.

22  
23 DATED: September 05, 2023

24   
JOHN D. EARLY  
25 United States Magistrate Judge  
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